

No. 9(1)81-8Lab/5704.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Sirocco Auto Private Ltd., Faridabad :

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 24<sup>th</sup> of 1978

between

SHRI KIRPA SHANKAR, WORKMAN AND THE MANAGEMENT OF M/S SIROCCO AUTO  
PRIVATE LTD., FARIDABAD

Present.—

Shri Yoginder Singh, for the workman.

Shri R. C. Sharma, for the management.

### AWARD

By order No. ID 33715, dated 9th July, 1978 the Governor of Haryana referred the following dispute between the management of M/s. Sirocco Auto Private Ltd., Faridabad and its workman Shri Kirpa Shankar to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:

Whether the termination of services of Shri Kirpa Shankar was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties following issues were framed on 6th September, 1978:—

1. Whether the workman remained absent? If so for how many days and to what effect?
2. Whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management who examined Shri Asha Nand Dua Time Keeper as MW-1 and closed their case. Then the case was fixed for the evidence of the workman, who examined himself as WW-1 and closed his case. Arguments were heard. I now give my finding issueswise:—

Issue No. 1.—MW-1 stated that he had brought attendance register. The workman was on medical leave upto 13th February, 1978. Thereafter he did not send any medical certificate or application for extension of leave. There was strike in the factory on 14th February, 1978. Thereafter the workman did not attend his duty. He was never stopped at the factory gate. He attended conciliation proceedings on behalf of the management and submitted written comments copy exhibit M-3. Conciliation report was Exhibit M-4. The concerned workman was absent till the end of March, 1978. In cross examination he stated that the workman was on medical leave upto 13th February, 1978. The workman had given a call at a gate meeting on 13th February, 1978 that there will be strike in the factory from 14th February, 1978. There were 114 workmen on strike out of 250 workmen. The Conciliation Officer was told that the workman could join his duty after satisfying the management the reason of his absence. The workman then told that he will bring medical and fitness certificate.

WW-1 stated that he joined this concern on 10th June, 1977 as helper. He admitted his signatures on Exhibit M-1 and M-2. He fell sick on 31st January, 1978. He was under treatment in the ESI hospital. He went to the factory on 21st February, 1978 with fitness certificate copy Exhibit M-1. Exhibit M-2 was the photo copy of the medical certificate. He was told by MW-1 that he should come after two days as the manager was not present in the factory. In this way he went to the factory gate for six days. He send medical certificate and application.—vide postal receipt Exhibit W-3. He did not know if there was strike in the factory in the month of February. He did not receive any letter from the management. In cross examination he stated that he offered the original of Exhibit W-1 to the management but they did not accept it. There must be record of his illness in the ESI hospital. He did not give medical certificate to the management for the period 14th February, 1978 to 20th February, 1978. He did not visit the factory from

13th February, 1978 to 20th February, 1978. He did not see the workers sitting outside the factory gate. When he went to the factory and the Manager refused him duty there were about 12 workmen sitting outside the factory. He denied the suggestion that Exhibit W-3 belong to some other person. During the conciliation the management had agreed to take him on duty in case he produces medical certificate but he told the management that no certificate could be produced because he was not ill during that period. He admitted having received Exhibit M-4.

I have gone through Exhibit M-4 and pleadings of the parties also. I find that the workman absented himself from duty from 14th February 1978. The demand notice is dated 2nd March, 1978. The workman gave 21st February, 1978 as the date when he went to the factory with fitness certificate but there is no reason as to why he waited for one month to give demand notice. In the circumstances I hold that the workman remained absent for more than 7 days.

Issue No 2.—According to the appointment letter Exhibit M-2 the workman was appointed with effect from 10th May, 1977, as a probationer for a period of six months extendable to two three months terms. It bears the signature of the workman. According to Exhibit M-1 clause 7 which is also signed by the concerned workman that a workman will be treated having lost his lien from service in case of his continuous absence for seven days. The action of the management is fortified by this clause and as held by me in issue No. 1 that the workman was absent for more than 7 days. Under the circumstances the workman lost his lien on service by remaining absent and there was on question of his termination of service. I decide this issue accordingly.

While answering the reference, I give my award that the management did not terminate the services of the workman, rather on the other hand the workman absented himself for more than 7 days and lost his lien on the job. The workman is not entitled to any relief. I order accordingly.

Dated the 10th May, 1981.

M. C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,  
Haryana, Faridabad.

No. 446, dated 12th May, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer, Industrial Tribunal,  
Haryana, Faridabad.

The 20th May, 1981

No. 9 (1) 81-8Lab/5240.—In pursuance of the provision of section 7 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M's Paonta Auto Industries (P) Ltd., Mathura Road Faridabad :—

IN THE COURT OF SHRI 'ISHWAR PRASAD CHAUDHRI PRESIDING OFFICER,  
LABOUR COURT, HARYANA, FARIDABAD

Reference No. 81 of 1981

between

SHRI RAI KUMAR, WORKMAN AND THE MANAGEMENT OF M'S PAONT  
AUTO INDUSTRIES 19/2, MATHURA ROAD, FARIDABAD

Present :

Shri Ralbir Singh for the workman.

None for the management.

AWARD

This reference No. 81 of 1981 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/162-80/7886, dated 13th February, 1981, under section 10 (i) (c)

of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Raj Kumar workman and the management of M/s. Paonta Auto Industries. 1A/2, Mathura Road, Faridabad. The term of the reference was:—

Whether the termination of services of Shri Raj Kumar was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were sent to the parties. On 30th March, 1981 Shri Balbir Singh authorised representative of the workman was present and he undertook to file the proper letter of authority on the date fixed. On 7th April, 1981 the representative of the workman Shri Balbir Singh did not want to appear from the workman side. On the otherhand the service of summon could not be effected on the respondent management because the factory was closed as per report of the peon as well as the postal authorities. It was already 2.30 P. M. None was present on behalf of the parties. The case was called thrice. I feel that the workman is not interested in pursuing his reference. I therefore, give my award that there is no dispute left between the parties at present. No order as to costs. This be read in answer of this reference.

Dated. the 30th April, 1981.

ISHWAR PRASAD CHAUDHRY,

Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

Endorsement No. 9'6, dated 1st May 1981

Forwarded (four copies) to the Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above-said award may please be sent to this court within week's time.

ISHWAR PRASAD CHAUDHRY,

Presiding Officer,  
Labour Court, Haryana,  
Faridabad.

The 5th May, 1981

No. 9(1)-81-8Lib/6289.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Notified Area Committee, Uchana (Jind).

BEFORE SHRI BANWARI LAL DALAL PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 29 of 1978

between

SHRI JAGDISH PRASHAD WORKMAN AND THE MANAGEMENT OF M/S.  
NOTIFIED AREA COMMITTEE, UCHANA (JIND)

Present :

Shri S. N. Vats, for the workman.  
No one for the management.

#### AWARD

This reference has been referred to this court by the Hon'ble Governor.—vide his order No. ID/KN/314-A-77/7324, dated 15th February, 1978 under section 10(i)(c) of the Industrial Disputes Act, for adjudication of the dispute existing between Shri Jagdish Prashad, workman, and the management of Notified Area Committee, Uchana. The term of the reference was:—

Whether the termination of service of Shri Jagdish Prashad was justified and in order ?  
If not, to what relief is he entitled ?

On the receipt of the order of reference, notices as usual were sent to the parties. The parties appeared, in response to the same, filed their respective pleadings. On the basis of which the following issues were framed:—

1. Whether the respondent Notified Area Committee Uchana is not an industry under the I. D. Act?
2. Whether the workman in this reference is not covered by the definition of workman as given in section 2(s) of the I. D. Act?
3. Whether the workman abandoned his post voluntarily on his own accord? If so, to what effect?
4. Whether the applicant is employed with the M. C. Narwana, if so, since when to what effect?
5. If issue Nos 1 to 4 are decided against the respondent and in favour of the workman than as per reference?

The management examined Shri R. N. Singh, Secretary as MW—1 their witness. The management was proceeded against *ex parte*. The workman was examined as his own witness and closed his case.

The arguments were heard on behalf of the workman and after perusing the evidence on the record I decide issuewise as under:—

*Issue Nos. 1 to 3.*—No evidence have been adduced on these issues by the management and the management has failed to discharge the onus to prove these issues which was placed on them. These issues are therefore, decided against the management and in favour of the workman.

*Issue No. 4.*—It has been admitted by the workman that he has been employed with the Municipal Committee Narwana as Chungi Mohrar since 1st June, 1976 as alleged by the management. This issue is therefore decided in favour of the management accordingly.

*Issue No. 5.*—From the evidence on the record it has been amply proved that the workman has remained employ with the management from 1st January, 1976 to 5th August, 1976. The management witness has stated that the workman was employed on sixth month basis who abandoned his services by verbal resignation. The workman did not speak even a word about the alleged resignation in rebuttal and only stated that he was not served with any notice and no notice pay etc. was paid to him and as such the termination was illegal.

I am least convinced with the evidence of the workman led in *ex parte* proceedings. From the bare perusal of the demand notice it is clear that the workman had not directly raised the demand on the management for his reinstatement and he has demanded from the Labour-cum-Conciliation Officer Panipat to reinstate him on regular basis. Moreover the workman has not put in more than 240 days of service with the management and was appointed on six month's basis and the term of service was not extended any further. I am inclined to hold that the workman abandoned his service and the management did not terminate his service and the question of issuing any notice of paying notice pay in lieu thereof or any compensation does not arise. The workman is therefore not entitled to any relief. The reference is answered and returned in these terms.

Dated the 23rd May, 1981.

BANWARI LAL DALAL,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

Endorsement No. 1738, dated 27th May, 1981

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

BANWARI LAL DALAL,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.